IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 247 of 2006
Date of Decision: 30.10.2006

Shri Krishan ...Petitioner

Vs.

Shiv Charan and Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.M.R.Verma, Advocate,
for the petitioner.

Mr.Vishal Garg, Advocate, for
for respondents No. 1 to 3.

Mr. J.P.Sharma, Advocate,
for respondents No.4 to 6 and 8 to 10.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against an order vide which learned Additional Civil Judge (Senior Division), Narnaul has been pleased to dismiss the suit against defendants No.4 to 6 under Order 9 Rule 2 of the Code of Civil Procedure for non-furnishing of copies of the plaint for service on defendants No.4 to 6. Thereafter, the petitioners moved an application seeking permission to serve defendants No.4 and 6. However, said application had also been dismissed.

The reading of Order 9 Rule 2 of the Code shows that it is only directory and not mandatory. The procedure and rules are hand made and and cannot stand in the way of the court to do substantial justice. Therefore, interest of justice would be served if the plaintiffs are now permitted to file

copies of the plaint for service on defendants No.4 to 6 who are otherwise served. The Court could have easily directed the plaintiffs to supply copies of the the plaint to the defendants who were present in court instead of taking this harsh action of dismissing the suit against defendants No.4 to 6.

Accordingly, this revision is allowed and the impugned order is set aside. The plaintiff-petitioners are now permitted to serve the copies of plaint on respondents No.1 to 3 along with costs of Rs.2000/- on the date fixed in the lower court.

Defendants No.4 to 6 are directed to appear in the Trial Court on the date fixed.

Copy of this order be given dasti on payment of usual charges.

(Vinod K.Sharma)
30.10.2006 Judge
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